

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

### **I. DISPUTE**

1. a. Whether there should be additional reimbursement for date of service 10/17/01?  
b. The request was received on 02/08/02.

### **II. EXHIBITS**

1. Requestor, Exhibit 1:
  - a. TWCC 60 and Letter Requesting Dispute Resolution dated 01/15/02
  - b. HCFA's/UB-92 1450
  - c. EOB
  - d. EOBs from other carriers
  - e. Medical Records
  - f. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 03/26/02. Per Rule 133.307 (g) (4), the carrier representative signed for the copy on 03/26/02. There was not 14 day response from the insurance carrier.

### **III. PARTIES' POSITIONS**

1. Requestor:

The Requestor asserts that charges were for facility fees not professional fees. The payment received only represents 16% of the total billed amount. Other workers' compensation carriers reimburse at 85-100%. Additional reimbursement is sought in the amount of \$4,922.49 for the date of service 10/17/01.

### **IV. FINDINGS**

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 10/17/01.
2. The Provider billed \$5,875.09 for the date of service 10/17/01.

3. The Carrier paid \$952.60 for the date of service 10/17/01.
4. The amount in dispute per the TWCC-60 is \$4,922.49.
5. The carrier has denied additional reimbursement for the date of service 10/17/01 as "M-THE REIMBURSEMENT FOR THE SERVICE RENDERED HAS BEEN DETERMINED TO BE FAIR AND REASONABLE BASED ON BILLING AND PAYMENT RESEARCH AND IS IN ACCORDANCE WITH LABOR CODE 413.011(B)."

## **V. RATIONALE**

Medical Review Division's rationale:

The medical documentation indicates the services were performed at an ambulatory surgical center. Commission Rule 134.401 (a) (4) states ASC(s) "...shall be reimbursed at a fair and reasonable rate..."

Texas Labor Code Section 413.011 (d) states, "Guidelines for medical services fees must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines."

The Medical Fee Guidelines General Instructions (VI) discuss that if a MAR value has not been established for a CPT code, reimbursement shall be, "...at the fair and reasonable rate."

Due to the fact that there is no current fee guideline for ASCs, the Medical Review Division has to determine what is fair and reasonable. The provider has submitted EOBs in an effort to document fair and reasonable reimbursement. The burden remains on the provider to prove that the amount of reimbursement requested is fair and reasonable. Recent SOAH decisions have placed minimal value on EOBs for documenting fair and reasonable reimbursement. The willingness of some carriers to reimburse at or near 100% of the billed charges do not necessarily document that the billed amount is fair and reasonable, or are they an indication of effective medical cost control which is a criteria identified in Sec. 413.011 (d) of the Texas Labor Code. The EOBs prove no evidence of amounts paid on behalf of managed care patients of ASCs or on behalf of other non-workers' compensation patients with an equivalent standard of living. Therefore, based on the evidence available for review, the Requestor is not entitled to additional reimbursement.

The above Findings and Decision are hereby issued this 10th day of June 2002.

Michael Bucklin, LVN  
Medical Dispute Resolution Officer  
Medical Review Division  
MB/mb

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.